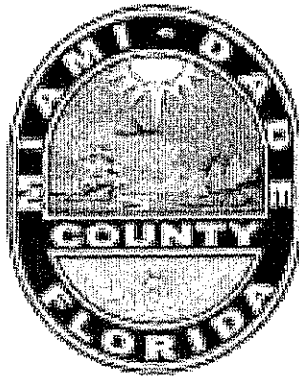


Miami-Dade County

Stephen P. Clark Government Center
111 N.W. 1st Street
Miami, Fl. 33128



LEGISLATIVE ANALYSIS

Thursday, March 11, 2004
9:30 AM
Commission Chambers

Board of County Commissioners

Budget and Finance Committee

LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT

ORDINANCE CHANGING THE BOUNDARIES OF THE CITY OF HIALEAH GARDENS, FLORIDA, AND AMENDING THE CHARTER OF SUCH MUNICIPALITY BY PROVIDING FOR THE ANNEXATION OF CERTAIN LANDS, UNDER AND PURSUANT TO PROCEEDINGS PRESCRIBED BY SECTION 5.04(B) OF THE HOME RULE CHARTER; PROVIDING FOR RESERVATION TO THE COUNTY OF ELECTRIC FRANCHISE, UTILITY TAX AND CIGARETTE TAX REVENUES; PROVIDING RETENTION OF GARBAGE AND REFUSE COLLECTION AND DISPOSAL; PROVIDING THAT THIS ORDINANCE WILL ONLY BECOME EFFECTIVE UPON THE OCCURRENCE OF CERTAIN EVENTS; PROVIDING INTERDEPENDENCY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

I. SUMMARY

The request is for a bounded area on the north by NW 170th Street, on the south by NW 138th Street, on the west by NW 107th Avenue and on the east by Interstate 75/ Town of Miami Lakes.

II. PRESENT SITUATION

The area in question is currently an UMSA donor area.

III. POLICY CHANGE AND IMPLICATION

The Manager's Incorporation strategy recommends not letting areas outside the Urban Development Boundary (UDB) be incorporated or annexed. In this case a portion of the area to be annexed is outside of the UDB. Excluding this area would create an enclave which is not in the best interest of the County.

IV. ECONOMIC IMPACT

The annexation would create a revenue loss of \$21,342 to the UMSA budget. The City has agreed to mitigate 100% of surplus revenues for the Commercial Business Industrial Area at the rate of .506 mills or \$13,342 this year. The net revenue loss to UMSA will be approximately \$8,000 for the current year.

V. COMMENTS AND QUESTIONS

The City agrees to comply with the County's Comprehensive Development Master Plan (CDMP) with regards to land outside of the UDB.

BUDGET & FINANCE ITEM 3(B)

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LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT

RESOLUTION APPROVING AMENDMENTS TO ADMINISTRATIVE ORDER 4-86: WORTHLESS CHECKS

Finance Department

I. SUMMARY

This resolution amends *Administrative Order (A.O.) 4-86 Worthless Checks* to formalize the current policies and procedures regarding County departments' collection on bad checks¹, as well as to correct scrivener's errors.

The main changes include:

- the addition of suggested language on the collection notice sent out to debtors; and
- the increase of the service charge imposed by the County from \$15.00 or 5% of the face amount of the check (whichever is greater) to \$25.00 or 5% of the face amount of the check (whichever is greater).

II. PRESENT SITUATION

The A.O. was last updated in July 1991.

Currently, the Finance Department handles bad checks for most County departments. Certain departments initiate collection efforts, before eventually forwarding the account to Finance, so that they have the opportunity to review their revenue impacts, reverse any licenses, etc. The Finance Department's Credit & Collections Unit focuses on collecting debts that are at least 60 days old. After a specified period of time, and dependent on the amount of the debt, the accounts are then forwarded to contracted outside collection agencies. These debts are often not reported on credit reports because the debtor's social security number is often not available.

Pursuant to Florida Statute 125.0105, the County is authorized to impose a service charge **in addition** to a service fee charged for the bad check (see attached). The service fees/charges are retained by the collecting department.

III. POLICY CHANGE AND IMPLICATION

These amendments would basically memorialize the policy and practices already in place.

IV. ECONOMIC IMPACT

The update of this A.O. to standardize policy and procedures regarding collection of bad checks, especially the language on collection notices, could possibly increase recovery.

¹ Bad checks (checks that fail to clear the bank) are synonymous with worthless checks.

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According to Finance, no statistics are available with respect to County recovery rates, but the number of bad checks is a very small percentage compared to the total checks received.

V. COMMENTS AND QUESTIONS

Florida law (specifically, Section 68.065) sets out the procedures of collection on bad checks, including maximum fees and suggested language for collection notices (see attached). After seven (7) days, the County is authorized to forward the case to the State Attorney's Office for criminal prosecution. If payment is not made within thirty (30) days, the County may also impose additional charges and pursue a civil action to collect for three (3) times the amount of the check, but in no case less than \$50.00.

Select Year: 2003 

The 2003 Florida Statutes

| <u>Title XI</u> | <u>Chapter 125</u> | <u>View Entire</u> |
|--|----------------------|--------------------|
| COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS | COUNTY GOVERNMENT | <u>Chapter</u> |

125.0105 Service fee for dishonored check.--The governing body of a county may adopt a service fee not to exceed the service fees authorized under s. 832.08(5) or 5 percent of the face amount of the check, draft, or order, whichever is greater, for the collection of a dishonored check, draft, or other order for the payment of money to a county official or agency. The service fee shall be in addition to all other penalties imposed by law. Proceeds from this fee, if imposed, shall be retained by the collector of the fee.

History.--s. 2, ch. 75-56; s. 28, ch. 79-164; s. 1, ch. 86-51; s. 3, ch. 89-303; s. 3, ch. 91-211; s. 2, ch. 96-239.

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Select Year:

The 2003 Florida Statutes

Title VI

Chapter 68

[View Entire Chapter](#)

CIVIL PRACTICE AND PROCEDURE MISCELLANEOUS PROCEEDINGS

68.065 Actions to collect worthless checks, drafts, or orders of payment; attorney's fees and collection costs.--

(1) In any civil action brought for the purpose of collecting a check, draft, or order of payment, the payment of which was refused by the drawee because of the lack of funds, credit, or an account, or where the maker or drawer stops payment on the check, draft, or order of payment with intent to defraud, and where the maker or drawer fails to pay the amount owing, in cash, to the payee within 30 days following a written demand therefor, as provided in subsection (3), the maker or drawer shall be liable to the payee, in addition to the amount owing upon such check, draft, or order, for damages of triple the amount so owing. However, in no case shall the liability for damages be less than \$50. The maker or drawer shall also be liable for any court costs and reasonable attorney fees incurred by the payee in taking the action. Criminal sanctions, as provided in s. [832.07](#), may be applicable.

(2) The payee may also charge the maker or drawer of the check, draft, or order of payment a service charge not to exceed the service fees authorized under s. [832.08\(5\)](#) or 5 percent of the face amount of the instrument, whichever is greater, when making written demand for payment. In the event that a judgment or decree is rendered, interest at the rate and in the manner described in s. [55.03](#) may be added toward the total amount due. Any bank fees incurred by the payee may be charged to the maker or drawer of the check, draft, or order of payment.

(3) Before recovery under this section may be claimed, a written demand must be delivered by certified or registered mail, evidenced by return receipt, or by first-class mail, evidenced by an affidavit of service of mail, to the maker or drawer of the check, draft, or order of payment to the address on the check or other instrument, to the address given by the drawer at the time the instrument was issued, or to the drawer's last known address. The form of such notice shall be substantially as follows:

"You are hereby notified that a check numbered _____ in the face amount of \$_____ issued by you on (date), drawn upon (name of bank), and payable to _____, has been dishonored. Pursuant to Florida law, you have 30 days from receipt of this notice to tender payment in cash of the full amount of the check plus a service charge of \$25, if the face value does not exceed \$50, \$30, if the face value exceeds \$50 but does not exceed \$300, \$40, if the face value exceeds \$300, or 5 percent of the face amount of the check, whichever is greater, the total amount due being \$_____ and _____ cents. Unless this amount is paid in full within the 30-day period, the holder of the check or instrument may file a civil action against you for three times the amount of the check, but in no case less than \$50, in addition to the payment of the check plus any court costs, reasonable attorney fees, and any bank fees incurred by the payee in taking the action."

(4) A subsequent person receiving a check, draft, or order, from the original payee or a successor endorsee has the same rights that the original payee has against the maker of the instrument, provided such subsequent person gives notice in a substantially similar form to that provided above. A subsequent person providing such notice shall be immune from civil liability for the giving of such notice and for proceeding under the forms of such notice, so long as the maker of the instrument has the same defenses against the subsequent person as against the original payee. However, the remedies available under this section may be exercised only by one party in interest.

(5) Subsequent to the commencement of the action but prior to the hearing, the maker or drawer may tender to the payee, as satisfaction of the claim, an amount of money equal to the sum of the

check, the service charge, court costs, and incurred bank fees. Other provisions notwithstanding, the maker or drawer is liable to the payee for all attorney fees and collection costs incurred by payee as a result of the payee's claim.

(6) If the court or jury determines that the failure of the maker or drawer to satisfy the dishonored check was due to economic hardship, the court or jury has the discretion to waive all or part of the statutory damages.

History.--s. 2, ch. 79-345; s. 1, ch. 86-89; s. 41, ch. 88-381; s. 1, ch. 89-303; s. 1, ch. 91-211; s. 1, ch. 96-239; s. 1, ch. 98-297; s. 1, ch. 2001-243; s. 1, ch. 2003-69.

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